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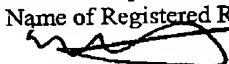
KRIEG · DEVAULT LLP
ATTORNEYS AT LAW**FAX COVER PAGE**

DATE: January 23, 2009

PAGES INCLUDING THIS PAGE: 11

TO: Examiner Thai Ba Trieu, Group Art Unit 3748
COMPANY: U.S. Patent and Trademark OfficeFAX NUMBER: 571-273-8300
PHONE NUMBER:

FROM: Mark T. Stephenson

DIRECT DIAL: (317) 238-6274
FAX NUMBER: (317) 636-1507RE: Paper Informing the Office of Previous Mailing of Correspondence -- Patent Application No. 10/723,172
to James A. McEwanCOMMENTS: I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and
Trademark Office at 571-273-8300 on:January 23, 2009
Date of TransmissionMark T. Stephenson
Name of Registered Representative
SignatureJanuary 23, 2009
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Client Matter No.: 274 HOET-16

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit: 3748
Confirmation No.: 5747
Application No.: 10/723,172
Title: TURBOCHARGER WITH
WASTEGATE
Inventor: James A. McEwan
Filing Date: 26 November 2003
Atty. Docket No.: HOET-16
Examiner: Thai Ba Trieu

Certificate Under 37 CFR 1.8(a)

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Date of Transmission



(Signature)

Mark T. Stephenson

(Printed Name)

PAPER INFORMING THE OFFICE OF PREVIOUS MAILING OF
CORRESPONDENCE

Mail Stop: Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant has recently become aware that a correspondence dated June 28, 2008 was not placed in the official file of the above captioned application in the United States Patent and Trademark Office (hereinafter "PTO") and furthermore Applicant seeks to promptly and formally inform the PTO of the missing correspondence. Examiner Tha Ba Trieu briefly spoke with the undersigned on Wednesday, January 21, 2009 regarding the above captioned application after completing a discussion regarding an Office Action in a separate application. Examiner Trieu subsequently contacted Practitioner Jason Houdek and discussed in greater detail the above captioned case on Thursday, January 22, 2009. During the course of that conversation Practitioner Houdek and Examiner Trieu discovered

that a correspondence submitted by the undersigned and dated June 27, 2008, copies of which are present in Applicant's file, was apparently missing in the official records of the PTO.

The undersigned deposited correspondence addressed to the United States Patent and Trademark Office with the United States Postal Service on June 27, 2008 with sufficient postage as first class mail. The correspondence included: (1) a paper entitled "Miscellaneous Letter" recounting two phone conversations with Examiner Thai Ba Trieu regarding the above captioned application, the paper having a certificate of mailing signed by the undersigned and dated June 27, 2008; (2) a Transmittal Form, form PTO/SB/21, also having a certification of mailing signed by the undersigned and dated June 27, 2008; and (3) a stamped, return receipt post card addressed to Krieg DeVault LLP that including markings on its content side indicating the enclosure of the "Miscellaneous Letter", the Transmittal Form, and the postcard.

The undersigned submits herewith copies of the correspondence referred to above as deposited on June 27, 2008. The enclosed includes copies of: (1) the "Miscellaneous Letter"; (2) the Transmittal Form; and (3) the self-addressed, stamped postcard.

Applicant further submits herewith evidence that the correspondence referred to above was received by the PTO. Specifically, a copy of the returned postcard is enclosed bearing the stamp of the Office of Initial Patent Examination of the PTO on its content side and having a stamped date of June 30, 2008. The postcard also bears a stamp of the IP Docketing department at Krieg DeVault LLP on its address side and having a date of July 7, 2008 indicating the return of the postcard from the PTO.

It is believed that the submission of the above mentioned correspondence and the accompanying evidence is sufficient to establish the deposit of the original correspondence on June 27, 2008. The Examiner is invited to contact the undersigned should there be any further questions.

Respectfully submitted,




Mark T. Stephenson
Reg. No. 60,530
Krieg DeVault LLP
One Indiana Square, Suite 2800
Indianapolis, Indiana 46204-2079
(317) 238-6274 (voice)
(317) 636-1507 (facsimile)

KD_IM-1938281_1.DOC

HOET-16/1455688

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit:	3748	}	<u>Certificate Under 37 CFR 1.8(a)</u>
Confirmation No.:	5747	}	I hereby certify that this correspondence is
Application No.:	10/723,172	}	being deposited with the United States
Title:	TURBOCHARGER WITH	}	Postal Service with sufficient postage as
	WASTEGATE	}	first class mail in an envelope addressed to
Inventor:	James A. McEwan	}	Mail Stop Appeal Brief-Patents,
Filing Date:	26 November 2003	}	Commissioner for Patents, P.O. Box 1450,
Atty. Docket No.:	HOET-16	}	Alexandria, VA 22313-1450
Examiner:	Thai Ba Trieu	}	
		}	On 27 June 2008
		}	
		}	(Signature)
		}	<u>Mark T. Stephenson</u>
		}	(Printed Name)

MISCELLANEOUS LETTER

Mail Stop: Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

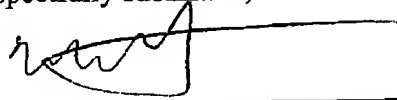
This correspondence is a follow-up to Applicant's Agreement to End Appeal and Reopen Prosecution of 19 April 2007. In light of the Supplemental Examiner's Answer filed by Examiner Trieu on 9 April 2007, Applicant contacted Examiner Trieu on 30 October 2007 and 31 October 2007 to inquire as to the status of the present application. Examiner Trieu consulted with her supervisor and indicated that the case would not be withdrawn from appeal to allow claims 2-4, 11-13, and 14-20. She further stated that prosecution would not be reopened until an amendment to claim 1 was entered in the case, at which time Examiner Trieu would examine the claims anew, possibly search further and perhaps allow the case. Examiner Trieu indicated that a terminal disclaimer is still required.

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Miscellaneous Letter
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Page 1 of 2

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In light for the foregoing, Applicant does not intend to file an amendment and will instead maintain the pending appeal.

Respectfully submitted,



Mark T. Stephenson, Reg. No. 60,530
Krieg DeVault LLP
One Indiana Square, Suite 2800
Indianapolis, IN 46204-2079
Telephone: (317) 238-6274
Fax: (317) 636-1507

Application No. 10/723,172
Miscellaneous Letter
HOET-16
Page 2 of 2

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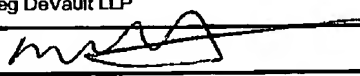
PTO/SB/21 (01-08)
Approved for use through 06/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10732,172	
	Filing Date	26 November 2003	
	First Named Inventor	James A. McEwan	
	Art Unit	3748	
	Examiner Name	Thai Ba Trieu	
Total Number of Pages in This Submission	3	Attorney Docket Number	HOET-16

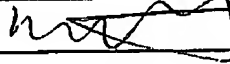
ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Miscellaneous Letter; Return Receipt Postcard
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Krieg DeVault LLP		
Signature			
Printed name	Mark T. Stephenson		
Date	27 June 2008	Reg. No.	60,530

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name	Mark T. Stephenson	Date	27 June 2008

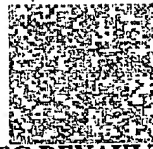
This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Application No. 10/723,172
Attorney Docket No. HCE-16
Applicant: James A. McEwan
Initials/Date: MTS/ 01/27/08
PATENT

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Application No. 10/723,172 Initials/Date: MTS/ 6/27/08
Attorney Dock p. HCE-16 PATENT
Applicant: James A. McEwen

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